



**BYRD
CAMPBELL**

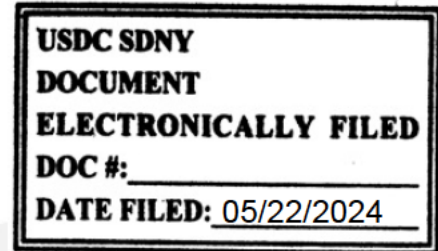
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May 16, 2024

VIA ECF

Honorable Judge Robert W. Lehrburger
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312



Re: PDV USA, Inc. v. Interamerican Consulting Inc.
Case No.: 1:20-cv-03699-JGK-RWL

Dear Judge Lehrburger:

We represent Interamerican Consulting, Inc. ("Interamerican") in the above-referenced case. Pursuant to paragraph 3 of the Stipulation and Order for the Production and Exchange of Confidential Information ("Protective Order") (Doc. 55) and Your Honor's Rules for Redactions and Filing Under Seal, Interamerican writes to request leave to maintain under seal Exhibits E, F, and G to PDV USA's Letter Motion to Compel (Doc. 189). In accordance with Rule B.5 of the Rules for Redactions and Filing Under Seal of Your Honor's Individual Practices in Civil Cases, we have provided under separate cover and seal the documents we seek to maintain under seal, and if they are made public, Interamerican's requested redactions, which are highlighted. (Doc. 198, Exs. A-C).

Although the right to inspect to inspect judicial documents is well-established, it is not absolute. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978) (footnote omitted). "Once the court has determined that the documents are judicial documents and that therefore a common law presumption of access attaches, it must determine the weight of that presumption." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006) "[T]he weight to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts. Generally, the information will fall somewhere on a continuum from matters that directly affect an adjudication to matters that come within a court's purview solely to insure their irrelevance." *Id.* (quotation omitted). After determining the weight of the presumption of public access, "the court must balance competing considerations against it." *Id.* (quotations omitted). "Such countervailing factors include but are not limited

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to the danger of impairing law enforcement or judicial efficiency” and “the privacy interests of those resisting disclosure.” *Id.* (quotations omitted).

The emails Interamerican seeks to maintain under seal reveal the confidential business information and legal strategies of Interamerican and David Rivera. *Kewazinga Corp. v. Google LLC*, No. 20 CIV. 1106 (LGS), 2020 WL 8224932, at *1 (S.D.N.Y. July 22, 2020) (“Filing the above-referenced documents under seal or in redacted form is necessary to prevent the unauthorized dissemination of the parties’ confidential business information and legal strategies, and third-party confidential business information and personal information.”). The information at issue includes draft documents and the mental impressions of Interamerican and Rivera’s counsel relating to the contract at issue in this case, which reveal Interamerican’s and Rivera’s legal strategies.¹

Therefore, Interamerican respectfully requests that the above documents be kept under seal, or, at a minimum, that Interamerican be permitted to redact any confidential banking information.

Respectfully submitted,

/s/ Jason Johnson

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¹ At a minimum, the emails at issue include confidential banking information which Interamerican believes is proprietary and should remain under seal.

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The material contained in Exhibits E, F, G generally does not satisfy the standards established by the Supreme Court in *Lugosch*. Although the motion to compel tends toward the lower end of the spectrum of “judicial” court filings, and although the material includes communications with an attorney, the documents on their face demonstrate their disclosure to Ms. Neuffer a third party. The request is denied except to the extent that PDV may maintain under seal the last four digits of any financial account.

SO ORDERED:

05/22/2024



HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE